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11 United States of America

12 UNITED STATES DISTRICT COURT

13 FOR THE CENTRAL DISTRICT OF CALIFORNIA

14 Esvin Fernando Arredondo Rodriguez,
15 individually and A.F.A.J., a minor, by
16 her guardian ad litem, Jeffrey Hamilton,

17 Plaintiffs,

18 v.

19 United States of America,

20 Defendant.

No. 2:22-cv-02845-JLS-JC

DEFENDANT'S UNOPPOSED *EX PARTE*
APPLICATION FOR EXTENSION OF
PRETRIAL CONFERENCE AND
CORRESPONDING DEADLINES;
DECLARATION OF CHRISTINA
MARQUEZ; STIPULATION OF FACTS
IN SUPPORT; [PROPOSED] ORDER

Honorable Josephine L. Staton
United States District Judge

EX PARTE APPLICATION

Defendant United States of America, hereby applies *ex parte* under Local Rule 7-19 for an Order from this Court continuing the Pre-Trial Conference and corresponding deadlines by sixty (60) days to October 11, 2024. The reasons for this application are set forth in the attached Declaration of Christina Marquez and Stipulation of Facts in Support of this Application. The notice for this *ex parte* application required under Local Rule 7-19 is also incorporated in the declaration.

Urgency: This order is sought by means of an *ex parte* application because there is insufficient time to seek an extension of time by noticed motion before the current L.R.16-2, Pretrial Meeting of Counsel deadline of June 28, 2024.

Notice: Plaintiffs agreed not to oppose this application but would not agree to stipulate to the extension herein. *See* Marquez Decl. at ¶ 8. Instead, they agreed to stipulate to certain facts. *See id.* On May 28, 2024, the parties reached an agreement on Stipulated Facts to be filed in support of this application. *See id.* Defendant informed Plaintiffs it would attach the Stipulated Facts to this application and file. *See id.*

Dated: May 28, 2024

Respectfully submitted,

E. MARTIN ESTRADA
United States Attorney
DAVID M. HARRIS
Assistant United States Attorney
Chief, Civil Division
JOANNE S. OSINOFF
Assistant United States Attorney
Chief, Complex and Defensive Litigation Section

/s/ Christina Marquez
CHRISTINA MARQUEZ
Assistant United States Attorney

Attorneys for Defendant

MEMORANDUM OF POINTS AND AUTHORITIES

The United States respectfully requests that the Court continue the Pre-trial Conference and corresponding deadlines by sixty (60) days to October 11, 2024. This is the first request to extend these deadlines.

Under Federal Rule of Civil Procedure 16(b)(4), the scheduling order “may be modified only for good cause and with the judge’s consent.” Good cause supports this application because there are outstanding dispositive motions, which may impact the scope of pre-trial filings. Stipulated Fact (SF) No 6. Therefore, a continuance of the Pre-Trial Conference and related deadlines will not only preserve the resources of the Court and the parties but will also allow the parties to assess the impact of the Court’s rulings on the pending cross-motions for summary judgment and Plaintiffs’ *Daubert* motions. *See id.*

The Court previously issued a scheduling order setting the Pre-Trial Conference for August 9, 2024. *See* Dkt. 51; *see also* SF No.1. The Court heard the parties’ cross motions for summary judgment on April 29, 2024. SF No.2. The Court has not yet ruled on the motions but has ordered the parties to participate in a second mediation/settlement conference. *See* Dkt. 202; *see also* SF No. 2. The parties have since scheduled a second settlement conference before Judge Autumn Spaeth, which is set for June 25, 2024. *See* Dkt. 217; *see also* SF No. 3.

Prior to the settlement conference, the parties have several settlement conference related deadlines including a pre-settlement conference call with Judge Spaeth, a pre-settlement conference call amongst the parties, and preparation of Confidential Settlement Conference statements. *See* Dkt. 217; *see also* SF No. 4. In addition, the Court at the above hearing indicated that it would probably issue a request for further briefing after the settlement conference, and before ruling on the cross-motions for summary judgment. *See* SF No. 4.

Under the Court’s current scheduling order, the parties must participate in the L.R. 16-2 Meeting of Counsel by June 28, 2024. *See* SF No. 5. In order to accomplish this,

1 the parties must, *inter alia*, stipulate to facts, disclose their exhibits and witnesses,
2 attempt to resolve evidentiary objections, identify portions of depositions that will be
3 read and disclose their contentions of fact and law. *See id.*

4 The outcome of the outstanding summary judgment motions, *Daubert* motions
5 and the settlement conference may impact the scope of pre-trial filings. *See* SF No. 6.
6 Therefore, a continuance of the Pre-Trial Conference and related deadlines will not only
7 preserve the resources of the Court and the parties but will also allow the parties to
8 assess the impact of the Court's rulings on the pending cross-motions for summary
9 judgment and Plaintiffs' *Daubert* motions. *See id.*

10 The requested extension of time should not prejudice Plaintiff because Plaintiff
11 does not oppose this application. *See* Marquez Decl. at ¶ 12.

12 For all the above reasons, the United States respectfully requests that the Court
13 continue the Pre-trial Conference and corresponding deadlines by sixty (60) days to
14 October 11, 2024.

15
16 Dated: May 28, 2024

Respectfully submitted,

17 E. MARTIN ESTRADA
United States Attorney
18 DAVID M. HARRIS
Assistant United States Attorney
19 Chief, Civil Division
JOANNE S. OSINOFF
20 Assistant United States Attorney
Chief, Complex and Defensive Litigation
21 Section

22
23 /s/ Christina Marquez
CHRISTINA MARQUEZ
Assistant United States Attorney

24 Attorneys for Defendant
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DECLARATION OF CHRISTINA MARQUEZ

I, Christina Marquez, pursuant to 28 U.S.C. § 1746, do hereby declare and state as follows:

1. I am an Assistant United States Attorney for the Central District of California and am the attorney responsible for representing the Defendants in this action. I make this declaration based on my personal knowledge of the facts and circumstances set forth herein as well as my review of the official files of the United States Attorney's Office for the Central District of California.

2. On May 2, 2024, I reached out to Plaintiffs' counsel seeking a stipulation to continue out the pre-trial conference and corresponding deadlines, considering the parties have pending dispositive motions that may impact the scope of pre-trial filings.

3. On May 6, 2024, counsel responded indicating that Plaintiffs would not oppose a motion by Defendant to continue the deadlines but would not stipulate to a continuance because it is their position the parties cannot stipulate to change the pre-trial schedule set by the Court.

4. I informed counsel of the Civility and Professionalism Guidelines, which states in pertinent part, "[we] will not force our adversary to make a motion and then not oppose it." Plaintiffs contended they are not forcing us to file a motion but maintain the position that the parties cannot stipulate to continue the Court set pre-trial schedule. Instead, they agreed to stipulate to facts in support of Defendants' application to continue out the Pre-trial Conference and corresponding deadlines, which is being filed concurrently.

5. Accordingly, this *ex parte* application is made under Local Rule 7-19 for a continuance of the Pre-trial Conference to October 11, 2024, and the corresponding deadlines by sixty (60) days.

6. This is Defendant's first request for an extension of time to continue the Pre-trial Conference and corresponding deadlines. The requested extension will not

1 prejudice Plaintiff in any way since they ***do not oppose*** this application and have
2 stipulated to certain facts in support of this application.

3 7. **Good Cause:** The outcome of the outstanding summary judgment motions,
4 *Daubert* motions and the settlement conference may impact the scope of pre-trial filings.
5 Therefore, a continuance of the Pre-Trial Conference and related deadlines will not only
6 preserve the resources of the Court and the parties but will also allow the parties to
7 assess the impact of the Court's rulings on the pending cross-motions for summary
8 judgment and Plaintiffs' *Daubert* motions.

9 8. **Notice:** Plaintiffs agreed not to oppose this application but would not agree
10 to stipulate to the continuance proposed herein. Instead, they agreed to stipulate to
11 certain facts, which is being filed concurrently and is referred to Stipulated Facts in
12 support of Defendant's Motion. On May 28, 2024, the parties reached an agreement on
13 Stipulated Facts to be filed in support of this application. I informed Plaintiffs' counsel
14 that I would attach the Stipulated Facts to this application and file.

15 9. **Plaintiff's Counsel's Contact Information:** Pursuant to Local Rule 7-19,
16 contact information for Plaintiffs' counsel is as follows:

17 Name: Linda Dakin-Grimm

18 Address: 2029 Century Park East, 33rd Floor, Los Angeles, CA 90067

19 Telephone: 424-386-4000

20 E-mail: LDakin-grimm@milbank.com

21 I declare under penalty of perjury that the foregoing is true and correct.

22 Executed May 28, 2024, at Los Angeles, California.

23 /s/ Christina Marquez
24 CHRISTINA MARQUEZ